Original

1909-10.

FILE No. 161 OF 1909-10.

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

PROCEEDINGS OF THE GENERAL AND REVENUE DEPARTMENT.

JUDICIAL AND LEGISLATIVE (COURTS).

JANUARY 1911.

"A" Collection: Serial Nos. 1—4.

Remission of Court-fees in certain cases.

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Proceedings of the Government of His Highness the Maharaja of Mysore,

Remission of Court-fees in certain cases.

File No. 161 of 1909-10.

Letter No. 2814—160, dated 12th January 1910, from V. A. Rajaratna Mudaliar, Esq., Registrar, Chief Court of Mysore, to C. S. Balasundaram Iyer, Esq., Officiating Secretary to Government, General and Revenue Departments.

Serial No. 1.

Owing to the absence of any compilation of Rules and Orders having the force of law, it is very difficult to ascertain what notifications have been issued by the Government under any particular Regulation. So far as the Judges of the Chief Court are aware there is no statutory authority for many exemptions which in practice have long been given effect to and if such is the case it is obvious that the matter should be put upon a legal basis. I am, therefore, directed to submit the accompanying draft notification for the consideration of the Government. The draft is on the lines of the marginally noted notifications which are in force throughout the whole of British India.

Government of India Notifications Nos. 4650, dated the 10th September 1889, 3389, dated the 6th August 1896, and 1180, dated the 24th February 1905.

2. Although the practice does not appear to be uniform, it is believed that the majority of the documents enumerated in clause (3) of the draft notification are generally regarded as exempt from Court-fee. Applications for the return of documents filed in Court are stamped with a one-anna stamp, a practice which, except in cases when the value of the connected suit is less than Rs. 50, is obviously unwarranted.

Draft Notification.

Under Section 42 of the Mysore Court-fees Regulation, 1900, it is hereby notified that, in exercise of the power to reduce or remit in the whole or any part of Mysore, all or any of the fees mentioned in the First and Second Schedules to the said Regulation, the Government of His Highness the Maharaja of Mysore has been pleased to make the remissions hereinafter set forth, namely:—

(1) To remit the fees chargeable on security-bonds for the keeping of the peace by, or good behaviour of, persons other than the executants.

(2) To remit the fees chargeable, under paragraph 4 of clause (*a*) and paragraph 2 of clause (*b*) of Article 1 of the Second Schedule, on applications for orders for the payment of deposits in cases in which the deposit does not exceed Rs. 25 in amount:

Provided that the application is made within three months of the date on which the deposit first became payable to the party making the application.

(3) To remit the fees chargeable on the following documents, namely:—

(*a*) Copy of the charge framed under Section 210 of the Code of Criminal Procedure, 1904, or a translation thereof, when the copy is given to an accused person;

(*b*) Copy of the evidence of supplementary witnesses after commitment when the copy is given under Section 219 of the said Code to an accused person;

(*c*) Copy or translation of a judgment in a case other than a summons case, and copy of the heads of the Judge's charge to the Jury, when the copy or translation is given under Section 371 of the said Code to an accused person;

(*d*) Copy or translation of a judgment in a summons-case when the accused person to whom the copy or translation is given under Section 371 of the said Code is in Jail.

(*e*) Copy of an order of maintenance, when the copy is given under Section 490 of the said Code to the person in whose favor the order is made, or to his guardian, if any, or to the person to whom the allowance is to be paid;

(*f*) Copy furnished to any person affected by a judgment or order passed by a Criminal Court, of the Judge's charge to the Jury, or of any order, deposition, or other part of the record, when the copy is not a copy which may be granted under

any of the preceding sub-clauses without the payment of a fee, but a copy which, on its being applied for under Section 548 of the said Code, the Judge or Magistrate, for some special reason to be recorded by him on the copy, thinks fit to furnish without such payment;

(*g*) Copies of all documents furnished under the orders of any Court or Magistrate to any Government Advocate or Pleader or other person specially empowered in that behalf for the purpose of conducting any trial or investigation on the part of the Government before any Criminal Court;

(*h*) Copies of all documents which any such Advocate, Pleader or other person is required to take in connection with any such trial or investigation for the use of any Court or Magistrate, or may consider necessary for the purpose of advising the Government in connection with any Government Proceedings;

(*i*) Copies of judgments or depositions required by officers of the Police Department in the course of their duties.

NOTE.—The fees chargeable on application for copies of the documents detailed in clause (3) are also remitted.

(4) To remit the fee chargeable on an application presented by any person for the return of a document filed by him in any Court or public office.

(5) To direct that no Court-fee shall be charged on an application for the repayment of a fine or any portion of a fine, the refund of which has been ordered by competent authority.

Letter No. J. 2737, dated 19th March 1910, from the Secretary to Government, General and Revenue Departments, to the Registrar of the Chief Court of Mysore.

Adverting to your letter No. 2814-160, dated the 12th January **Serial No. 2.**
191), submitting a draft Notification regarding certain exemptions under the Court-fees Regulation, I am directed to request you to be so good as to institute necessary enquiries and furnish Government with information on the following points.

Clause (1) of the draft.—What is the practice now. If no stamp fee is being levied why should there be an exemption. Does not exception in Section 16 (X) of the Court-fees Regulation apply to such cases?

Clause (2).—What deposits are meant here? Is the contemplated payment to the depositor or to some one for payment to whom the deposit has been made. What is the practice and what the necessity for the change? Does not Section 16 (XV) of the Court-fees Regulation apply?

Clause (3) (a).—The exemption which at present exists is based on the last seven words of Section 210 of the Code of Criminal Procedure. Is not that provision enough, why should there be a special exemption under the Court-fees Regulation?

Clause (3) (b).—Same remark, please see Section 219, Code of Criminal Procedure.

Clause (3) (c).—Same remark, please see Section 371 of the said Code.

Clause (3) (d).—What is the present practice? If copies are exempted any where, under what authority?

Clause (3) (e).—Is the expression "without payment" occurring in Section 490 of the Code of Criminal Procedure taken as excluding payment of stamp fees?

Clause (3) (f).—Does not "free of cost" occurring in Section 548 of the Code of Criminal Procedure include the exemption of the Court-fee also?

Clause (3) (g), (h), (i).—What is the practice and on what authority is it based?

Clause (4).—Why should not a uniform fee of one anna be kept on remitting the seven annas in respect of applications in cases of the value of over Rs. 50.

Clause (5).—Does not Section 16 (XV) of the Court-fees Regulation exempt this already?

Remission of Court Fees in certain cases.

Letter No. 1195—70, dated 8—9th September 1910, from the Registrar of the Chief Court of Mysore, to the Secretary to Government, General and Revenue Departments.

Serial No. 3.

With reference to your letter No. J. 2757—Cts. 161-09-2, dated the 19th March 1910, I am directed to say that the information furnished by the District and Sessions Judge of the Mysore Division, from whom inquiries were made, is far from perfect and that existing practices appear to vary considerably.

2. The other information called for by Government is given below:—

(*a*) *Clause* (*1*). Apparently security bonds are at present taken on plain paper on the analogy of the exemption referred to in Section 16, clause X of the Court-fees Regulation. A security bond is of course not a bail bond.

(*b*) *Clause* (*2*). The payment contemplated is to the person for payment to whom the deposit has been made. Apparently applications at present have to bear a one-anna stamp. The money is not due by Government to the applicant.

(*c*) *Clause* (*3*). The freedom from cost referred to in Sections 210, 219, 371, 490 and 548 of the Code of Criminal Procedure means freedom from all expense in preparing the copy and does not include immunity from stamp duty. Unless the fees chargeable on the documents referred to in (*a*) to (*f*) are remitted, considerable hardship is likely to be felt by accused persons.

(*d*) The documents referred to in (*g*), (*h*) and (*i*) appear to be given free as a matter of course but no authority is cited.

(*e*) *Clause* (*4*). There is no reason why an uniform fee of one anna should not be retained. The proposal made by this Court merely followed the British India Rule. It will only be necessary to insert the words "in excess of one anna" after the word "fee" in the clause.

(*f*) *Clause* (5). Money which has to be refunded can scarcely be said to be money due by Government to the applicant.

3. I am to add that the Judges of the Chief Court especially press for the remissions referred to in clause (3) (*a*) to (*f*) and in clause (4). The other remissions referred to are of no great importance.

No. J. 2066—Cts. 161-09-4, dated Bangalore the 18th January 1911.

Notification.

Serial No. 4.

Under Section 42 of the Mysore Court Fees Regulation, 1900, it is hereby notified that, in exercise of the power to reduce or remit, in the whole or any part of Mysore, all or any of the fees mentioned in the First and Second Schedules to the said Regulation, the Government of His Highness the Maharaja of Mysore have been pleased to make the remissions hereinafter set forth, namely:—

(1) To remit the fees chargeable on security-bonds for the keeping of the peace by, or for good behaviour of, persons other than the executants.

(2) To remit the fees chargeable on:—

(*a*) A copy or translation, given free of cost under Sections 210, 219, 371, 490 and 548 of the Criminal Procedure Code;

(*b*) Copy or translation of a judgment in a summons-case when the accused person to whom the copy or translation is given under Section 371 of the said Code is in Jail;

(*c*) Copies of all documents furnished under the orders of any Court or Magistrate to any Government Advocate or Pleader or other person specially empowered in that behalf, for the purpose of conducting any trial or investigation on the part of the Government before any Criminal Court;

(*d*) Copies of all documents which any such Advocate, Pleader or other person is required to take in connection with any such trial or investigation for the use of any Court or Magistrate, or may consider necessary for the purpose of advising the Government in connection with any Government Proceedings.

(*e*) Copies of judgments or depositions required by officers of the Police Department in the course of their duties.

(3) To remit the fees chargeable on applications for copies of the documents detailed in clause (2).

(4) To remit the fee, in excess of one anna, chargeable on an application presented by any person for the return of a document filed by him in any Court or Public Office.

(5) To remit the Court Fee chargeable on an application for the repayment of a fine or any portion of a fine, the refund of which has been ordered by competent authority.